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PATENT

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8702

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF)

Gary Greenberg)

Serial No. 09/552,180)

Filed: April 18, 2000)

For: Method and Apparatus For)
Creating Real-Time 3-D Images)
And Constructing 3-D Models)
Of An Object Imaged In An)
Optical System)

Examiner: Jesse C. Rowe

Art Unit: 2872

Date: July 23, 2002

RESPONSE

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Assistant Commissioner for Patents
Washington, D.C. 20231

In response to the Office Action mailed June 25, 2002, Applicant responds as follows.

Applicant appreciates the Examiner's renumbering of the misnumbered claims and has marked the application accordingly.

Applicant respectfully traverses the Examiner's requirement for restriction and, in doing so, makes the provisional election of Species X, including claims 1-7, 13, 22-23, 27-36.

Applicant wishes to point out that the Examiner's characterization of "Species" I, II, III, IV and V as being drawn to an "endoscope" is not consistent with the claims. The only claims that specifically refer to an endoscope are claims 42-50.

In addition, Applicant respectfully submits that separating dependent claims from their independent claims does not meet the requirement for restriction that the claims are drawn to independent inventions. See 35 U.S.C. 121. Thus, for example, in Species X, the Examiner has included independent claim 7, but excluded the dependent claims 8-16. Similarly, the Examiner has included independent claim 22, while excluding its dependent claims 24-26.

In Species I, the Examiner has likewise, as it has in every other Species, excluded dependent claims while including their independent claims. The four independent claims in Species I (1, 7, 22 and 42) have a combined total of 30 dependent claims, most of which have been left out of Species I.

Applicant respectfully submits that if the independent claims in each Specie were to include their dependent claims (as not being drawn to inventions which are independent and distinct from the claims from which they dependent), Applicant might well make a different election.

The core element common to all of the claimed inventions is an optical system employing a dynamic aperture whereby the portion of the objective aperture through which light passes is continuously changed. That core invention provides the viewer with dynamic 3-D viewing. The various claims are all to methods and apparatus which are based on the core invention and simply describe various different embodiments of that core invention.

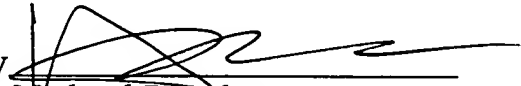
Applicant submits that whether the objective aperture is created by an array of LCDs, overlapping leaflets, semi-circular opaque disks, or expandable bellows, or some other mechanical or electromechanical mechanism is a matter of

choice, depending on the circumstances and use of the invention.

Based on the foregoing, Applicant respectfully requests that the Examiner regroup the claims according to statutory requirements and provide Applicant with the opportunity to elect claims so grouped.

Respectfully submitted,

Dated 7/23/02

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